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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,628	12/17/2001	Toru Shirasaki	SH-0028US	4082
21254	7590	01/12/2005	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			BARRECA, NICOLE M	
			ART UNIT	PAPER NUMBER
			1756	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

RE

Office Action Summary

Application No.

10/016,628

Applicant(s)

SHIRASAKI, TORU

Examiner

Nicole M Barreca

Art Unit

1756

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-18, 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 19-21, 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-21 and 23-25 are pending in this application.
2. The 102 (b) rejection of claims 1-21 and 23-25 over Watanabe has been withdrawn in response to the applicant's amendment requiring the upper protruding part or first portion to contact the adhesive film.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites the first portion directly contacts the reticle. It is unclear how the first portion can contact both the pellicle film and the reticle. Was the second portion intended to contact the reticle?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 19, 21 and 25 rejected under 35 U.S.C. 102(b) as being anticipated by Norio (JP 09-319069, English translation from JPO).

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7. Norio discloses a pellicle optical element. Rectangle-like opening 11 is formed in pellicle frame 10, producing a protruding, first portion which directly contact the pellicle film 3. Adhesive 2 is applied on the contact surface 12 of frame 10 and as a result of opening 11 contacts both the film 3 and the protruding, first portion. Portion 10a of the frame corresponds to the second portion which contacts the first portion. See abstract, p.2-4 of translation and figures 1-3.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norio as applied to claim 19 above, and further in view of applicant's admitted prior art.

10. Norio is silent on using another adhesive film to contact the second portion (body part of pellicle frame) to the reticle. The applicant teaches that a conventional photomask includes an adhesive layer (22) used to attach the bottom of the pellicle frame (10) to a reticle (14). See p.3, lines 1-13. It would have been obvious to one of ordinary skill in the art to use another adhesive film to contact the second portion or pellicle frame to the reticle in the method of Norio because the applicant teaches that this is the configuration of a conventional photomask structure which includes a pellicle.

Allowable Subject Matter

11. Claims 1-18 and 23-24 are allowed.

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12. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to teach or suggest a pellicle comprising a frame including a body part having height which is substantially constant, an upper protruding part on the upper end of the body part having a height which is substantially constant and which directly contacts the surface of the pellicle film, and an adhesive between the body part and film which contacts the upper protruding part.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole M Barreca whose telephone number is 571-272-1379. The examiner can normally be reached on Monday-Thursday (9AM-7PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicole M Barreca
Examiner
Art Unit 1756



1/5/05